

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 VICTOR TAGLE,

Case No. 2:18-cv-01031-GMN-VCF

4 Plaintiff,

ORDER

5 v.

6 CORRECTIONS CORPORATION OF
7 AMERICA et al.,

8 Defendants.

9 **I. DISCUSSION**

10 Plaintiff is a prisoner proceeding *pro se*. Plaintiff has submitted a document
11 entitled “tort action” and an application to proceed *in forma pauperis*. (ECF Nos. 1, 1-1).
12 However, on at least three (3) occasions, the Court has dismissed civil actions
13 commenced by Plaintiff while in detention as malicious or for failure to state a claim upon
14 which any relief may be granted.¹

15 Pursuant to 28 U.S.C. § 1915(g), “if [a] prisoner has, on 3 or more prior occasions,
16 while incarcerated or detained in any facility, brought an action or appeal in a court of the
17 United States that was dismissed on the grounds that it is frivolous, malicious, or fails to
18 state a claim upon which relief may be granted,” he may not proceed *in forma pauperis*
19 and, instead, must pay the full \$400.00 filing fee in advance unless he is “under imminent
20 danger of serious physical injury.” 28 U.S.C. § 1915(g).

21 In his “tort action,” Plaintiff sues various Nevada Department of Corrections
22 (“NDOC”) employees, Core Civic employees, and deputy attorney generals for various
23 actions that appear to take place at both NDOC facilities and at the Saguaro Correctional
24

25 ¹ See *Tagle v. State of Nevada et al*, 2:15-cv-02083-RCJ-GWF (dismissed for failure to
26 state a claim); *Tagle v. State of Nevada et al*, 2:15-cv-02358-MMD-PAL (dismissed for
27 maliciousness and failure to state a claim); and *Tagle v. State of Nevada et al*, 2:16-cv-
28 00852-JAD-VCF (dismissed for maliciousness and failure to state a claim). The Ninth
Circuit Court of Appeals has affirmed Plaintiff’s three-strikes status. See *Tagle v. Core
Civic America et al*, 2:18-cv-00544-JAD-NJK at ECF No. 31. The Court takes judicial
notice of its prior records in the above matters.

1 Center in Eloy, Arizona.² (See *generally* ECF No. 1-1). However, after reviewing these
2 allegations, the Court finds that the allegations fail to plausibly allege that Plaintiff is in
3 imminent danger of serious physical injury. See *Andrews v. Cervantes*, 493 F.3d 1047,
4 1055 (9th Cir. 2007) (holding that the exception to § 1915(g) applies if the complaint
5 makes a plausible allegation that the prisoner faced imminent danger of serious physical
6 injury at the time of filing). As such, Plaintiff must pre-pay the \$400.00 filing fee in full.

7 The Court further notes that, to the extent that Plaintiff seeks to sue the employees
8 of the Saguaro Correctional Center for actions taking place in Arizona, Plaintiff should
9 sue those individuals in the United States District Court for the District of Arizona.³

10 **II. CONCLUSION**

11 For the foregoing reasons, it is ordered that Plaintiff's application to proceed *in*
12 *forma pauperis* (ECF No. 1) is denied.

13 It is further ordered that this action will be dismissed without prejudice unless
14 Plaintiff pays the \$400.00 filing fee in full within thirty (30) days from the date of this order.

15 It is further ordered that the Clerk of the Court shall send Plaintiff two copies of this
16 order. Plaintiff shall make the necessary arrangements to have one copy of this order
17 attached to the check paying the filing fee.

18 ///

19 ///

20 ///

21 ///

22 ² Plaintiff is a prisoner in the custody of the NDOC who is being housed at a private prison
23 in Arizona.

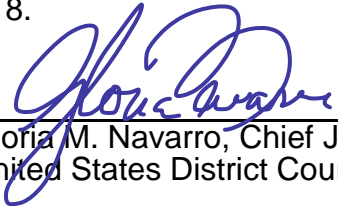
24 ³ Pursuant to 28 U.S.C. § 1391(b), a plaintiff may bring an action in:

25 (1) a judicial district in which any defendant resides, if all defendants are
26 residents of the State in which the district is located; (2) a judicial district in
27 which a substantial part of the events or omissions giving rise to the claim
28 occurred, or a substantial part of property that is the subject of the action is
situated; or (3) if there is no district in which an action may otherwise be
brought as provided in this section, any judicial district in which any
defendant is subject to the court's personal jurisdiction with respect to such
action.

28 U.S.C. § 1391(b)(1)-(3).

1 It is further ordered that the Clerk of the Court shall retain the "tort action" (ECF
2 No. 1-1) but shall not file the document until the matter of the filing fee is resolved.

3
4 DATED THIS 26 day of December 2018.

5 
6 _____
7 Gloria M. Navarro, Chief Judge
8 United States District Court
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28